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In re Application of	:	
FREYNE et al.	:	
Application No.: 10/596,509	:	DECISION
PCT No.: PCT/EP2004/053497	:	
Int. Filing Date: 15 December 2004	:	
Priority Date: 18 December 2003	:	
Attorney's Docket No.: PRD-2168USPCT	:	
For: 3-CYANO-QUINOLINE DERIVATIVES WITH	:	
ANTIPROLIFERATIVE ACTIVITY	:	

This decision is in response to applicants' petition under 37 CFR 1.59(b) filed 06 November 2006 in the United States Patent and Trademark Office (USPTO).

### **BACKGROUND**

On 15 December 2004, applicants filed international application PCT/EP2004/053497, which designated the U.S. and claimed a priority date of 18 December 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 30 June 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 June 2006 (18 June 2006 being a Sunday).

On 15 June 2006, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 06 November 2006, applicants submitted the instant petition under 37 CFR 1.59(b).

### **DISCUSSION**

The petition requests that the documents filed by U.S. mail on 30 October 2006 in US application number 10/596,609 ('609 application) be either transferred to the instant application or expunged from the '609 application.

A petition under 37 CFR 1.59(b) is for expungement of papers rather than transfer of papers. Accordingly, the documents filed 30 October 2006 in the '609 application will not be transferred to the instant application. The petition to expunge must be filed in the application in which the papers are to be expunged. Here, the petition to expunge was filed in an application in which no papers are to be expunged.

### CONCLUSION

The petition under 37 CFR 1.59(b) is **DISMISSED** without prejudice for the reasons set forth above.

It is suggested that a petition under 37 CFR 1.59(b) be filed in the '609 application.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

/Daniel Stemmer/

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